Election for Members of Rajya Sabha

2747. DR. K. MALAISAMY: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether on the issue of election some Members of Rajya Sabha, who were elected earlier from the State to which they neither belong nor reside, a lot of uproar and noise were created and adversely reacted by certain major political party functionaries;

(b) whether the very same pattern has been followed again in electing the MPs (RS) by the very same reactionaries; and

(c) if so, what is the standard that can be conceived and followed in future?

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): (a) and (b) The Representation of the People (Amendment) Act, 2003, *inter alia*, amended section 3 of the Representation of the People Act, 1951 to remove the residential qualification for contesting elections to the Council of States. The said amendment was in accordance with the view of the Election Commission that a precise definition of 'ordinarily resident' was very difficult and emphasized that it was for the political parties, acting through Parliament, to carry out what in their judgement, might be the best possible solution, in the light of the experience of the past few decades. During the consideration of the corresponding Bill, divergent views were expressed both for and against the provision but after its enactment it is the law of the land and any person cannot be questioned for following the same.

(c) The said Amendment Act has been challenged in the Supreme Court in Kuldip Nayar *vs.* Union of India and others [W.P. (Civil) No. 217 of 2004] along with three other connected matters. The cases now stand referred to the Constitution Bench of the Supreme Court.

Allocation for Enforcement of Laws

2748. SHRI MANOJ BHATTACHARYA:
SHRI C. RAMACHANDRAIAH:
SHRI PRAMOD MAHAJAN:

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether the Supreme Court of India has issued any directive to Government to make some budgetary allocation every time a Bill is passed by Parliament to enable the judiciary to meet the cost of its enforcement;

(b) if so, the details thereof and its implications; and

(c) Government's response thereto?

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): (a) Yes, Sir.

(b) In paragraphs 53 and 54 of the judgement of the Supreme Court in the matter of Salem Bar Association *Vs* Union of India has observed as under:

"53. The Committee has also suggested that:

Further, there must be 'judicial impact assessment' as done in the United States, whenever any legislation is introduced either in Parliament or in the State Legislatures. The financial memorandum attached to each Bill must estimate not only the budgetary requirement of other staff but also the budgetary requirement for meeting the expenses of the additional cases that may arise out of the new Bill when it is passed by the legislature. The said budget must mention the number of civil and criminal cases likely to be generated by the new Act, how many courts are necessary, how many Judges and staff are necessary and what is the infrastructure necessary. So far in the last fifty years such a judicial impact assessment has never been made by any legislature or by Parliament in our country.

54. Having regard to the constitutional obligation to provide fair, quick and speedy justice, we direct the Central Government to examine the aforesaid suggestions and submit a report in this Court within four months".

(c) Invariably, whenever a Bill if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India, a Financial Memorandum is appended to such Bill to indicate the expenditure, recurring and non-recurring. The provisions of the Bill are also indicated in bold print for benefit of the Hon'ble M.Ps. If and when it could be necessary to indicate any other connected or incidental

expenditure towards establishment of Courts, etc., the same could also be indicated in the Financial Memorandum. However, this will slow down the pace of a legislation—in relation to social, labour or other legislation of progressive nature—as unforeseen expenditure has to be assessed before undertaking such legislation.

Free and fair elections

2749. SHRI SILVIUS CONDPAN: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether considering the illiteracy and ignorance among the communities Government would take up a scheme to regularly educate the society in the matter of fair, free and fearless elections which is considered to be a very important area in upholding the democracy; and

(b) whether any strict measures would be adopted to prevent rigging, intimidation, booth capturing etc., during elections?

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): (a) The Election Commission has informed that it had launched a countrywide National Voter Awareness Campaign (NVAC) on 15th August, 1994, through the Chief Electoral Officer (CEOs) of various States/Union Territories involving non-political and Non-Governmental Organization (NGOs), etc., with broad aims and objectives of improving the general awareness about the importance of right of franchise and its free and fair exercise. In 1997, the Commission allowed the CEOs to utilize the services of Government Agencies/Departments like Public Relations Department in the States, Districts, etc. in addition to NGOs for implementation of programmes under this Scheme.

(b) The Election Commission has informed that to prevent rigging, intimidation, booth capturing etc. during elections, it issues necessary directions from time to time. It adopts measures like area dominations by security forces, deployment of Central Para Military and other security forces at the polling booths, asking the State Governments to execute non-bailable warrants, launch special drives to unearth illegal arms, ammunitions, explosives, make preventive arrests, ban on issue of